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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|------------------|
| 10/620,965 | 07/15/2003 | Jay A. Vomdran | AMCOR-003 | 9700 |
| 7733 | 7590 | 09/29/2005 | EXAMINER | |
| WALKER & JOCKE, L.P.A. 231 SOUTH BROADWAY STREET MEDINA, OH 44256 | | | WYSZOMIERSKI, GEORGE P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1742 | |
| DATE MAILED: 09/29/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,965

Applicant(s)

VORNDRAN, JAY A.

Examiner

George P. Wyszomierski

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/15/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6, 8, 9, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinz et al. (U.S. patent 3,917,125).

Heinz discloses making a basket-shape container having a mesh screen **16** on its lower surface, and inserting the container into a melt so that flux from the melt solidifies in the pores of the screen. See Heinz column 2, line 37 to column 3, line 5. With respect to claims 6 and 8, the screen material of Heinz is held to be “refractory” and “heat insulating” in the absence of any numerical definition of these terms. Thus, all aspects of the claimed invention are held to be fully met by Heinz et al.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinz et al.

The structure of Heinz including the flux material in the pores as described in item no. 2 supra is lowered into a melt composition. While Heinz never states the term "metal", it is a reasonable assumption that the Heinz process is directed to molten metal, given the temperatures involved. At some point during this step of the Heinz process, only the flux material adjacent to the opening would be exposed to the molten material. With respect to instant claim 12, exposing the Heinz material to the molten metal for a time as recited in the instant claim would fall within the purview of the Heinz process. Thus, the disclosure of Heinz et al. is held to create a prima facie case of obviousness of the presently claimed invention.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinz et al., as above, in view of Potier et al. (U.S. Patent 4,040,469) or Shima (U.S. Patent 4,430,121).

The Heinz process uses platinum for making the screen **16**, as opposed to the ceramic material as required by the instant claim. The examiner's position is that it was well-known in the art, at the time of the invention, to utilize ceramic materials for portions of an apparatus that are to be in contact with molten metal, as evidenced by Potier (see column 1; lines 53-63) or Shima (see column 4, lines 16-55). The use of these compositions results in improved properties in the metal produced from such a system. Thus, the disclosures of Potier et al. or Shima would have motivated one of ordinary skill in the art to substitute a ceramic material for the platinum screen material used in the Heinz et al. process.


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6. The remainder of the art cited on the attached PTO-892 and 1449 forms is of interest. This art is held to be no more relevant to the claimed invention than the art applied in the rejections, supra.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Wyszomierski whose telephone number is (571) 272-1252. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (571) 272-1244. Effective July 15, 2005, all patent application related correspondence transmitted by facsimile must be directed to the new central facsimile number, (571)-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GEORGE WYSZOMIERSKI
PRIMARY EXAMINER
GROUP 1742

GPW

September 20, 2005